

OCT 25 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ZULMA DINORATH SANTOS-
PELOYO,

Petitioner,

V.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75516

Agency No. A78-102-118

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 11, 2005^{**}

Before: HALL, T.G. NELSON, and TALLMAN, Circuit Judges.

Zulma Dinorath Santos-Peloyo, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") denial of her motion to

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

reopen removal proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion, *Singh v. INS*, 295 F.3d 1037, 1040 (9th Cir. 2002), and we grant the petition for review.

The BIA abused its discretion in denying the Petitioner's motion to reopen because the evidence she submitted demonstrated "exceptional circumstances" excusing her failure to appear. *See id.* at 1040.

PETITION FOR REVIEW GRANTED; REMANDED.